

AMENDED IN ASSEMBLY MARCH 17, 2011

AMENDED IN ASSEMBLY MARCH 8, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 130**

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**Introduced by Assembly Member Cedillo**

**(Principal coauthors: Assembly Members Alejo, Roger Hernández,  
and Lara)**

**(Principal coauthor: Senator De León)**

**(Coauthors: Assembly Members Allen, Ammiano, Bonilla, Brownley,  
Campos, Eng, Fong, Furutani, Monning, and Yamada)**

**(Coauthors: Senators Hancock, Padilla, and Yee)**

January 11, 2011

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An act to ~~amend Section 68130.7 of~~, to amend, repeal, and add Section 68130.5 of, and to add Section 66021.7 to, the Education Code, relating to student financial aid.

### LEGISLATIVE COUNSEL'S DIGEST

AB 130, as amended, Cedillo. Student financial aid: eligibility: California Dream Act of 2011.

(1) Existing law requires that a person, other than a nonimmigrant alien, as defined, who has attended high school in California for 3 or more years, who has graduated from a California high school or attained the equivalent thereof, who has registered at or attends an accredited institution of higher education in California not earlier than the fall semester or quarter of the 2001–02 academic year, and who, if he or she is an alien without lawful immigration status, has filed a prescribed affidavit, is exempt from paying nonresident tuition at the California Community Colleges and the California State University.

This bill would enact the California Dream Act of 2011. The bill, as of July 1, 2011, would exempt a person who has attended, for 3 or more years, at least one of which shall have been in a high school, and graduated from, secondary school in California from paying nonresident tuition at the California Community Colleges and the California State University. Under the bill, persons attending and graduating from California technical schools and adult schools, as well as high schools, would be included within the scope of this provision.

(2) The Donahoe Higher Education Act sets forth, among other things, the missions and functions of California's public and independent segments of higher education, and their respective institutions of higher education. Provisions of the act apply to the University of California only to the extent that the Regents of the University of California, by appropriate resolution, act to make a provision applicable.

In any action in which a state court finds that a specified law, or any similar provision adopted by the regents, is unlawful, existing law authorizes the court to order the administering entity that is the subject of the lawsuit to terminate any waiver awarded under that statute or action, as equitable relief, prohibits the award of money damages, tuition refund or waiver, or other retroactive relief, and provides that the California Community Colleges, the California State University, and the University of California are immune from the imposition of any award of money damages, tuition refund or waiver, or other retroactive relief in a lawsuit.

This bill would provide that, on and after January 1, 2012, a student attending the California State University, the California Community Colleges, or the University of California who is exempt from paying nonresident tuition under the provision described above would be eligible to receive a scholarship derived from nonstate funds received, for the purpose of scholarships, by the segment at which he or she is a student.

Existing federal law requires that a state may provide that an alien who is not lawfully present in the United States is eligible for any state or local public benefit for which that alien would otherwise be ineligible under a specified federal law only through enactment of a state law that affirmatively provides for that eligibility.

This bill would find and declare that the amendments to the Donahoe Higher Education Act described above are state laws within the meaning of this federal provision.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. This act shall be known, and may be cited, as the  
2 California Dream Act of 2011.

3 SEC. 2. (a) The Legislature finds and declares all of the  
4 following:

5 (1) It is the intent of the Legislature that all students who are  
6 exempt from nonresident tuition pursuant to Section 68130.5 of  
7 the Education Code and that are deemed to be in financial need  
8 shall be eligible for all financial aid.

9 (2) Increased access to financial aid for all students in  
10 California's universities and colleges increases the state's collective  
11 productivity and economic growth.

12 (b) It is, therefore, the intent of the Legislature to address these  
13 issues by enacting the California Dream Act of 2011.

14 SEC. 3. Section 66021.7 is added to the Education Code, to  
15 read:

16 66021.7. Notwithstanding any other law, on and after January  
17 1, 2012, a student attending the California State University, the  
18 California Community Colleges, or the University of California  
19 who is exempt from paying nonresident tuition under Section  
20 68130.5 shall be eligible to receive a scholarship that is derived  
21 from nonstate funds received, for the purpose of scholarships, by  
22 the segment at which he or she is a student. The Legislature finds  
23 and declares that this section is a state law within the meaning of  
24 subsection (d) of Section 1621 of Title 8 of the United States Code.

25 SEC. 4. Section 68130.5 of the Education Code is amended to  
26 read:

27 68130.5. Notwithstanding any other law:

28 (a) A student, other than a nonimmigrant alien within the  
29 meaning of paragraph (15) of subsection (a) of Section 1101 of  
30 Title 8 of the United States Code, who meets all of the following  
31 requirements shall be exempt from paying nonresident tuition at  
32 the California State University and the California Community  
33 Colleges:

34 (1) High school attendance in California for three or more years.

1 (2) Graduation from a California high school or attainment of  
2 the equivalent thereof.

3 (3) Registration as an entering student at, or current enrollment  
4 at, an accredited institution of higher education in California not  
5 earlier than the fall semester or quarter of the 2001–02 academic  
6 year.

7 (4) In the case of a person without lawful immigration status,  
8 the filing of an affidavit with the institution of higher education  
9 stating that the student has filed an application to legalize his or  
10 her immigration status, or will file an application as soon as he or  
11 she is eligible to do so.

12 (b) A student exempt from nonresident tuition under this section  
13 may be reported by a community college district as a full-time  
14 equivalent student for apportionment purposes.

15 (c) The Board of Governors of the California Community  
16 Colleges and the Trustees of the California State University shall  
17 prescribe rules and regulations for the implementation of this  
18 section.

19 (d) Student information obtained in the implementation of this  
20 section is confidential.

21 (e) This section shall remain in effect only until July 1, 2012,  
22 and as of that date is repealed, unless a later enacted statute, that  
23 is enacted before July 1, 2012, deletes or extends that date.

24 SEC. 5. Section 68130.5 is added to the Education Code, to  
25 read:

26 68130.5. Notwithstanding any other law:

27 (a) A student, other than a nonimmigrant alien within the  
28 meaning of paragraph (15) of subsection (a) of Section 1101 of  
29 Title 8 of the United States Code, who meets all of the following  
30 requirements shall be exempt from paying nonresident tuition at  
31 the California State University and the California Community  
32 Colleges:

33 (1) Secondary school attendance in California for three or more  
34 years, at least one year of which shall have been at high school.

35 (2) Graduation from a California secondary school or attainment  
36 of the equivalent thereof.

37 (3) Registration as an entering student at, or current enrollment  
38 at, an accredited institution of higher education in California not  
39 earlier than the fall semester or quarter of the 2001–02 academic  
40 year.

1 (4) In the case of a person without lawful immigration status,  
2 the filing of an affidavit with the institution of higher education  
3 stating that the student has filed an application to legalize his or  
4 her immigration status, or will file an application as soon as he or  
5 she is eligible to do so.

6 (b) A student exempt from nonresident tuition under this section  
7 may be reported by a community college district as a full-time  
8 equivalent student for apportionment purposes.

9 (c) The Board of Governors of the California Community  
10 Colleges and the Trustees of the California State University shall  
11 prescribe rules and regulations for the implementation of this  
12 section.

13 (d) Student information obtained in the implementation of this  
14 section is confidential.

15 (e) This section shall become operative on July 1, 2012.

16 SEC. 6. ~~Section 68130.7 of the Education Code is amended to~~  
17 ~~read:~~

18 ~~68130.7. If a state court finds that Sections 66021.6 and~~  
19 ~~68130.5, or any similar provision adopted by the Regents of the~~  
20 ~~University of California, is unlawful, the court may order, as~~  
21 ~~equitable relief, that the administering entity that is the subject of~~  
22 ~~the lawsuit terminate any waiver or eligibility awarded under that~~  
23 ~~statute or provision, but no money damages, tuition refund or~~  
24 ~~waiver, or other retroactive relief, may be awarded. In any action~~  
25 ~~in which the court finds that Sections 66021.6 and 68130.5, or any~~  
26 ~~similar provision adopted by the Regents of the University of~~  
27 ~~California, is unlawful, the California Community Colleges, the~~  
28 ~~California State University, and the University of California are~~  
29 ~~immune from the imposition of any award of money damages,~~  
30 ~~tuition refund or waiver, or other retroactive relief.~~